

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

EUGENE EDWARD PATTERSON,)	
)	
Petitioner,)	
)	Case No. 1:12-cv-40-SJM-SPB
v.)	
)	
COMMONWEALTH OF)	
PENNSYLVANIA, <i>et al.</i> ,)	
)	
Respondents.)	

MEMORANDUM ORDER

This petition for writ of habeas corpus was received by the Clerk of Court on February 2, 2012 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation, filed on January 24, 2013 [15], recommends that this Court grant the Respondents' motion to dismiss the pending petition for writ of habeas corpus on grounds of untimeliness. The Magistrate Judge further recommends that a certificate of appealability be denied.

The parties were allowed fourteen (14) days from the date of service in which to file objections. Service was made on Petitioner by certified mail at SCI Albion, where he is incarcerated, and on Respondents. Petitioner's objections [16] were filed on January 31, 2013. In them, Petitioner raises certain arguments which run to the merits of his petition but which fail to address the issue of timeliness. Accordingly, after de novo

review of the petition and documents in the case, together with the Report and Recommendation and objections thereto, the following order is entered:

AND NOW, this 1st Day of February, 2013;

IT IS ORDERED that the Respondents' motion to Dismiss Petition for Writ of Habeas Corpus [13] shall be, and hereby is, GRANTED, and the above-captioned case shall be marked "CLOSED."

Inasmuch as jurists of reason would not find it debatable that the instant petition for writ of habeas corpus is untimely, IT IS FURTHER ORDERED that no certificate of appealability shall issue.

The Report and Recommendation of Magistrate Judge Baxter dated January 24, 2013 [15] is adopted as the opinion of the Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN
United States District Judge

Cm: All parties of record.

U.S. Magistrate Judge Susan Paradise Baxter